

STATUS OF THE CLAIMS

Claims 1-20 are pending in the Application

Claims 1-20 are rejected by the Examiner.

Reconsideration of the present Application is respectfully requested.

STATUS OF THE DRAWINGS

Drawing Objections Pursuant to 37 C.F.R. 1.83(a)

In response to Examiner's objection regarding the drawings of the present application, Applicant respectfully submits, pursuant to 37 CFR 1.83, that the drawings show every feature of the invention specified in the claims and are in compliance with standard practice and procedure. Applicant submits that the claimed method steps and claimed structural elements cited, in part, by the Examiner are fully supported, in part, by Figures 1 and 2.

Applicant respectfully submits that the above objection is unsupported and has been overcome. If the Examiner maintains this objection, Applicant respectfully requests that Examiner specifically point out which claim elements are asserted to be absent from the drawings, in accordance with MPEP § 608.01.

REMARKS

Claim Rejections Pursuant to 35 U.S.C. 112

Claims 1-20 stand rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

Applicant regards as the invention. Applicant traverses these rejections and deems them overcome for at least the following reasons:

Support for "automatically and temporarily interrupting, by said agent, of said engaging in said at least one activity, dependently upon said detecting" may, for example, be found in the specification at Paragraph 17. Support for "allowing said at least one user to reengage with said activity based upon an interaction with said agent during said presenting" (as per claim 1) may, for example, be found in the specification at Paragraph 17. Support for "at least one of operating a software application, participating in a chat group, surfing the web, participating with instant messaging, and perceiving an audio/visual presentation" (as per claim 2 and 16) may, for example, be found in the specification at Paragraph 49. Support for "a collaborative interaction of said plurality users with said enabled agent" (as per claims 3 and 17) may, for example, be found in the specification at Paragraph 57. Support for "retrieving data from at least one remote database by any one of manual and automatic use of a Uniform Resource Locator address" (as per claims 4 and 18) may, for example, be found in the specification at Paragraph 33. Support for "generating at least one Hyper Text Transfer Protocol request" (as per claim 5 and 19) may, for example, be found in the specification at Paragraph 33. Support for "a database of user characteristics" (as per claims 6 and 20) may, for example, be found in the specification at Paragraph 29. Support for "a detector for automatically monitoring" (as per claim 7) may, for example, be found in the specification at Paragraph 39. Support for "code for temporarily and automatically interrupting" (as per claims 7 and 15) may, for example, be found in the specification at Paragraph 17. Support for "a gaming counsel" (as per claims 6 and 20) may, for example, be found in the specification at Paragraph 45. Support for "a detector for automatically monitoring" (as per claim 7) may, for example, be found in the specification at Paragraph 39. Support for "code for temporarily and automatically interrupting" (as per claims 7 and 15) may, for example, be found in the specification at Paragraph 17. Support for "a gaming

counsel" (a per claim 10) may, for example, be found in the specification at Paragraph 45. Support for "at least one communications device" (as per claim 11) may, for example, be found in the specification at Paragraph 50. Support for "a telephone" (as per claim 12) may, for example, be found in the specification at Paragraph 49. Support for "at least one communication for coordinating said interrupting" (as per claim 14) may, for example, be found in the specification at Paragraph 51. Support for "code for allowing said at least one user to reengage with said activity based upon user interaction with said enabled agent" (as per claim 15) may, for example, be found in the specification at Paragraph 17.

Applicant has amended, without prejudice, the typographical error of Claim 3 to provide a proper antecedent basis for the limitation in that claim, and has cancelled Claim 13. Additionally, Applicant has searched the claims for the phrase "the completed further data" and respectfully submits such a phrase is not included in the present application.

Applicant respectfully submits that the above 35 U.S.C. §112 second paragraph rejection has been overcome.

Claim Rejections Pursuant to 35 U.S.C. §102(e)

Claims 7-17 and 20 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2002/0116266 A1 to Marshall. Applicant traverses these rejections, and deems them overcome, for at least the following reasons:

Marshall fails to disclose all claim elements of independent Claim 7.

35 U.S.C. 102(e) recites:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Accordingly, MPEP 2131 states:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Regarding Claims 7 and 15:

Although the Examiner argues, in part, that Claims 7 and 15 are anticipated by Marshall, Applicant respectfully submits that Claims 7 and 15 are in condition for allowance. Examiner argues that Marshall includes all the elements of the present invention. Applicant respectfully and strongly disagrees.

As just one example, Marshall does not teach the temporary and automatically interrupting of a user engagement with an activity in a system comprising at least one microprocessor device. For support, the Examiner points to Marshall at paragraph [0073], which, in part, provides:

In a situation involving an in-person presentation before a single individual, a device controlled by the representative of the participant may be employed to record instances of inattention in the form of unscheduled interruptions or other distractions that tend to interfere with the attention provided by the targeted individual. The device may be programmed to provide for the entry of information such as the commencement of an interruption, the resumption of the presentation after the interruption, indications of the level of attentiveness of the individual on a suitable scale, and other information. The algorithms that are employed to calculate awards may include a reduced award for each interruption. In those cases where the interruptions are shorter than a selected threshold period of time, the interruption may be disregarded so as to have no effect upon the award of time points

to the particular individual. The selection is preferably made generally for a program or participant, so that the individual representative making the presentation does not have this discretion. The measurement of the number of interruptions operates as a proxy for attention. There may be defaults provided so that the presenter will not deprive the individual of credit by forgetting to record the end of an interruption. For example, the device may periodically provide a signal requiring the presenter to respond by indicating, such as by pressing one of two buttons, whether the presentation is ongoing or in an interruption. Microphones and voice recognition software may be provided so that, by recognizing the presenter's voice and certain words, tones or cadences, the device can automatically determine when presentations commence, are interrupted, and cease.

Marshall does not teach the interruption of a user engagement of an activity, but rather, the interruption of a “device controlled by the representative,” i.e. the invention of the presentation by the presenter, such as a punishment for in attentiveness. Marshall fails to teach, and Examiner has failed to show, that the cited art interrupts user engagement with an activity in a system.

Marshall thus fails to teach, among other things, the interruption of user engagement with an activity in a system, and therefore, Marshall cannot anticipate Claims 7 and 15. (*See MPEP 2131*). Consequently, Applicant traverses the 35 U.S.C. §102(e) rejection of Claim 7-17 and 20, deems it overcome, and respectfully requests removal of the rejection.

Claim Rejections Pursuant to 35 U.S.C. §103

Claims 1-6, 16, 18 and 19 Rejection

Claims 1-6, 16, 18 and 19 stand rejected pursuant to 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2002/0116266 A1 to Marshall in view of U.S. Publication No. 2003/0008266 A1 to LoSasso et al. Applicant traverses these rejections for at least the following reasons.

The Examiner fails to make out a prima facie case of obviousness with respect to Claim 1.

35 USC §103(a) recites:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Accordingly, MPEP 706.02(j) states:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. ***Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations.*** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaack, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

As argued above, Marshall, among other things, does not teach the interruption of user engagement with an activity in a system. Since neither Marshall nor LoSasso, alone or in combination, teach the claim limitations of the present invention, the combination of Marshall and LoSasso cannot render obvious Claim 1 of the present invention. *MPEP 706.02(j) (... the prior art reference (or references when combined) must teach or suggest all claim limitations.)* Consequently, Applicant traverses the 35 U.S.C. §103(a) rejections and respectfully requests

their reconsideration and removal. In addition, Applicant asserts that independent Claim 1 is in a condition for allowance.

Dependent Claims

Further, Applicant submits that dependent Claims 2-6, 8-14 and 16-20 are similarly in a condition for allowance, at least by virtue of their ultimate dependence upon a patentable base Claims 1, 7 and 15, respectively. Applicant thus traverses the Examiner's rejections of dependent Claims 2-6, 8-14 and 16-20 and respectfully requests their reconsideration and removal.

Conclusion

In view of the amendments and remarks included herein, it is respectfully submitted that the present application is in condition for final allowance and notice to such effect is respectfully requested. If the Examiner believes that additional issues need to be resolved before this application can be passed to issue, the undersigned invites the Examiner to contact him at the telephone number provided below.

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Respectfully Submitted,


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